



The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) extends the moratorium on payment changes for certain pathology services for 2005 and 2006.

Background

- In the 2000 physician fee schedule final rule (published November 2, 1999), CMS stated that, as of January 1, 2001, Medicare would pay only hospitals for the technical component (TC) of physician pathology services furnished to inpatients. Under prior policy, an independent laboratory could bill under the physician fee schedule for pathology TC for a hospital inpatient.

The TC refers to the preparation of the slide to be reviewed by the pathologist.

- CMS' rationale for this change was that the prior policy allowed duplicate payments for TC services -- once to the hospital under the inpatient PPS and again to the independent laboratory.

BIPA Moratorium

- Implementation of the new policy was put on hold by the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), which required continued separate payment for pathology TC furnished by an independent laboratory for an inpatient or outpatient of a "covered hospital". The BIPA moratorium was effective for the 2-year period beginning January 1, 2001.

BIPA defined a "covered hospital" as a one that had an arrangement with an independent lab in effect as of July 22, 1999, under which the lab furnished the TC of physician pathology services for inpatients or outpatients of the hospital, and submitted claims for the TC service to a carrier.

- Despite expiration of the BIPA moratorium after 2002, CMS (in a Program Memorandum dated January 17, 2003) directed the carriers to continue the moratorium until they receive further instructions from CMS. Carriers have been instructed to continue the moratorium for 2004.

GAO Study

- BIPA also required GAO to study the policy's effects on hospitals, labs, and beneficiary access, and to provide recommendations on whether to extend the moratorium beyond 2002, and whether to include additional hospitals. A final GAO report was issued in September 2003, recommending that Congress consider not extending the moratorium, and that CMS terminate its policy of paying labs separately for the technical component of physician pathology services for hospital patients.

New Provision in the MMA: The MMA continues the BIPA moratorium for 2005 and 2006.